

**THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

SYMBOLOGY INNOVATIONS, LLC,

Plaintiff,

v.

MACY’S, INC.,

Defendant.

Case No. 2:23-cv-00583-JRG

JURY TRIAL DEMANDED

RESPONSE TO DEFENDANT’S MOTION TO DISMISS

On April 15, 2024, Defendant Macy’s, Inc. filed a Motion to Dismiss For Failure to State a Claim under F.R.C.P. 12(b)(6) (Dkt. No. 15) (“MTD”). Plaintiff Symbology Innovations, LLC has filed a First Amended Complaint (Dkt. No. 22).

It is well established that a later-filed amended complaint moots a motion asking the Court to dismiss an earlier-filed complaint. *See Griffin v. Am. Zurich Ins. Co.*, 697 F. App’x 793, 797 (5th Cir. 2017) (“Once filed, that amended complaint rendered all earlier motions ... moot.”); *see also Bishop Display Tech LLC v. Samsung Elecs. Co., Ltd.*, No. 2:21-cv-00139-JRG, Dkt. No. 40 (E.D. Tex. Oct. 4, 2021) (“Once Plaintiff filed its amended complaint, the Motion became moot.”); *Ultravision Technologies, LLC v. Eaton Corp. PLC*, No. 2:19-CV-00290-JRG, 2019 WL

11250161, at *1 (E.D. Tex. Nov. 7, 2019) (“Accordingly, the filing of an amended complaint moots a motion to dismiss the original complaint.”).

Accordingly, Defendant’s MTD is now moot.

Dated: April 29, 2024

Respectfully Submitted,

/s/ Randall Garteiser

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COUNSEL FOR PLAINTIFF

CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing using the Court's Case Management and Electronic Case Filing system, which will send notification of such filing to counsel of record in this action registered with the Court's system. Those counsel not registered with the Court's system will receive service via electronic and U.S. Mail.

/s/ Randall Garteiser
Randall Garteiser